



Committee On Finance

Max Baucus, Ranking Member

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Baucus Works With Sens. McCain and Grassley to Provide Military with Tax Relief *Senators Urge House to Pass Comprehensive Senate Bill*

(WASHINGTON, D.C.) U.S. Senator Max Baucus joined Sens. John McCain (R-Ariz.) and Chuck Grassley (R-Iowa) in pushing the House to finally pass legislation that would provide comprehensive tax relief to members of the military. The original bill, The Armed Forces Tax Fairness Act of 2003, passed the Senate in March by a vote of 97 to 0.

Last week, the House passed a watered down version of the Senate military tax relief bill. As a result, last night the Senate passed an amendment to strengthen the House bill and reinsert the full provisions of the Senate bill that passed in March. While the House version passed last week included two important provisions -- doubling the amount of payments received if a member of the military dies in the line of duty and ensuring these payments are not subject to taxes -- the bill left out a number of vital provisions.

"The House made important strides for our military last week, but half a loaf is not good enough when it comes to helping the people who are putting their lives on the line to defend our country," Baucus said. "I'm proud to be working with Senators McCain and Grassley to get the additional protections that the Senate passed last March into the House bill."

A number of organizations have come out in support of the Armed Forces Tax Fairness Act, including the Military Officers Association of America (MOAA). In a recent statement, the MOAA highlighted their support for quick passage of a comprehensive military tax relief bill:

"MOAA believes these major provisions of the Armed Forces Tax Fairness Act, which provide relief to thousands of active duty, Guard and Reserve members and military survivors, should be acted on as a single package. The bill has the overwhelming support of Members of Congress and has been stalled for far too long over relatively minor differences between the House and Senate. We applaud [these] actions and hope that the House and Senate leadership can reach a swift agreement on this very important issue."

Some provisions that McCain, Grassley and Baucus are working to enact into law include:

Exclusion of gain on the sale of a principal residence: In 1997, Congress passed legislation excluding capital gains taxes on the sale of a personal home if the owner has lived there for at least two of the previous five years. Unfortunately, Congress failed to provide a special rule for military and Foreign Service personnel who are required to move either within the U.S. or abroad. The Senate bill would correct this oversight when military personnel are required to move either within the U.S. or abroad.

Above-the-line deduction for overnight travel expenses of National Guard and Reserve Members: Some reservists who travel one weekend per month and two weeks in the summer for reserve duty incur significant travel and lodging expenses and these expenses are generally not reimbursed. The Senate proposal would provide an above the line deduction for overnight travel costs and would be available for all reservists and members of the National Guard, regardless of income.

Ensuring childcare subsidies are not part of taxable income: The Senate proposal would make sure that childcare subsidies are not included as income for tax purposes for military personnel. In 1986, Congress passed legislation stating that qualified military benefits are excluded from income. The Senate passed provision would ensure that childcare falls under that definition as well.

"As the conflict continues in Iraq, our military men and women are giving their all for our country," Baucus added. "They're away from home, away from their friends and family, and often placing themselves in serious danger. As Members of Congress, it's the least we can do to pass a strong, comprehensive bill that will provide tax relief and make their lives a little easier. I look forward to continuing to work with the Senate and House to reach agreement on a final bill that can pass this year."

Full floor statement of Senator Baucus follows:

SENATE AMENDMENT TO THE FALLEN PATRIOTS TAX BENEFIT ACT OF 2003
November 3, 2003

Mr. President, I rise today in support of this amendment to *The Fallen Patriots Tax Benefit Act of 2003*. The bill that we received from the House includes two important provisions that the Senate has already approved this year. However, it does not include the numerous other provisions that the Senate has passed to ensure equity for military personnel. This amendment would add these important provisions.

First, the House bill doubles the amount of the death gratuity payments for members of our military. Under current law, the families of military personnel receive a death gratuity benefit of \$6,000. This bill would increase that amount to \$12,000. The Senate included this provision in the defense authorization bill that is currently in conference.

Second, the House bill ensures that these payments will not be subject to taxation. Under current law, death gratuity benefits are excludable from income only to the extent that they were as of September 9, 1986, which was \$3,000.

In 1991, the benefit was increased to \$6,000 – but the tax code was never adjusted to exclude the additional \$3,000 from income. Because of this oversight, the U.S. government has been taxing families for the death of a family member who died in combat.

The House bill would make the entire \$12,000 death gratuity benefit tax-free, and ensure that families are not hit with a tax bill during their most difficult hour. This provision was included in the Senate passed *Armed Forces Tax Fairness Act*.

That is what this bill does. Now let me talk about what the House bill does NOT do.

This bill does not include the numerous other provisions for military personnel that were included in the *Armed Forces Tax Fairness Act of 2003*, which was passed by the Senate in March by 97 to 0. These provisions are vital to ensuring tax equity for our active duty military and reservists.

Let me explain these provisions.

First, the House bill does not include the exclusion of gain on the sale of a principal residence.

In 1997, Congress passed legislation revising the taxation of capital gains on the sale of a person's principal residence.

The new law provides that up to \$250,000 – or \$500,000 for a married couple – is excluded on the sale of a principal residence if the individual has lived in the house for at least two of the previous five years.

However, when enacted, Congress failed to provide a special rule for military and Foreign Service personnel who are required to move either within the U.S. or abroad.

Our proposal in the *Armed Forces Tax Fairness Act* would permit service personnel and members of the Foreign Service to suspend the five-year period while away on assignment. That means that those years would not count toward either the two years or the five-year periods. Senators McCain, Graham, and Lincoln proposed a bill in the last session to correct this.

Second, the House bill does not allow for the exclusion from taxable income of amounts received under the military housing assistance program. The Department of Defense provides payments to members of the Armed Services to offset diminution in housing values due to military base realignment or closure.

For example, if a house near a base was worth \$140,000 prior to the base closure and \$100,000 after the base closure, DOD may provide the owner with a payment to offset some, but not all, of the \$40,000 diminution in value. Under current law, those amounts are taxable as compensation.

We should ensure that those men and women losing value in their homes due to a federal government decision are not adversely affected financially.

The proposal in the *Armed Forces Tax Fairness Act* would provide that payments for this type of lost value are not includible into income.

Third, the House bill does not expand the combat zone filing rules to include contingency operations. Under current law, military personnel in a combat zone are afforded an extended period for filing tax returns.

However, this does not apply to contingency operations. This proposal in the Armed Forces Tax Fairness Act would extend the same benefits to military personnel assigned to contingency operations.

It cannot be easy trying to figure out our complicated tax system while you are overseas and protecting our nation's freedom. Those men and women who are sent to uphold democracy and freedom in other countries are confronted with the same filing complications as combat zone personnel.

Contingency operations are just as demanding as combat zone deployment, although not always in the same manner. For example, in our current war on terrorism, this proposal would help members of our Special Forces in the Philippines supporting Operation Enduring Freedom. These troops are just as focused on accomplishing their critical mission as our troops in the Iraqi combat zone.

Fourth, the House bill does not provide an above-the-line deduction for overnight travel expenses of National Guard and Reserve Members. Some reservists who travel one weekend per month and two weeks in the summer for reserve duty incur significant travel and lodging expenses.

For the most part, these expenses are not reimbursed. Under current law, these are deductible as itemized deductions but must exceed 2% of adjusted gross income.

For lower income reservists, this deduction does not provide a benefit, because they do not itemize. For higher income reservists, the 2% floor limits the amount of the benefit of the deductions.

In my home state of Montana, we have approximately 3,500 reservists - 800 of whom travel each month across the state for their training. These 800 reservists pay travel and lodging expenses out of their own pocket.

Montana ranks 48th in the nation for per capita personal income. So, that \$200 expense for reserve duty every month means a lot to the Montana reservist. Yet, they continue selflessly to provide their services to our country at their own expense. For those reservists who travel out of state for their training, this expense is even higher.

The proposal in the Armed Forces Tax Fairness Act would provide an above the line deduction for overnight travel costs and would be available for all reservists and members of the National Guard.

Fifth, the House bill does not expand the rules to qualify for membership of veterans' organizations. Currently, qualified veterans' organizations under section 501(c)(19) of the tax code both tax-exempt and contributions to the organization are tax-deductible.

In order to qualify under 501(c)(19), the organization must meet several tests. For example, 75 percent of the members must be current or former military -- and substantially all of the other members must be either spouses, widows, or widowers of current or former military.

The proposal in the Armed Forces Tax Fairness Act would permit lineal descendants and ancestors to qualify as eligible members of these important groups.

It is important that our veterans' organizations continue the good work that they do. But, as the organizations age, they are in danger of losing their tax-exempt status. The Armed Forces Tax Fairness Act helps ensure the vitality of these organizations.

Sixth, the House bill does not clarify the tax treatment of childcare subsidies. I want to ensure that parents in the military can continue their dedicated service with the knowledge that their children are well taken care of.

The military provides extensive childcare benefits to its employees. Employees at DoD-owned facilities provide childcare services while other areas with non-DoD owned facilities contract out their childcare.

When Congress passed the Tax Reform Act of 1986, we included a provision stating that qualified military benefits are excluded from income. It is not absolutely clear whether childcare provisions are covered under this provision.

The proposal in the Armed Forces Tax Fairness Act would clarify that any childcare benefit provided to military personnel would be excludible from income.

Seventh, the House bill does not allow students at the Service Academies to use their education savings account funds. In contrast, the Armed Forces Tax Fairness Act does permit penalty-free withdrawals from education savings accounts and qualified tuition programs made on account of the attendance of the account holder or beneficiary at any of the Service Academies. The amount of the funds that can be withdrawn penalty-free is limited to the costs of advanced education in that calendar year.

Eight, the House bill does not allow the IRS to suspend the tax-exempt status of terrorist organizations. Under current law, there is no procedure for the IRS to suspend the tax-exempt status of an organization.

The Armed Forces Tax Fairness Act would allow the suspension of the tax-exempt status of an organization for any period during which the organization is designated or identified- by Executive Order- as a terrorist organization.

Ninth, the House bill does not provide tax relief for families of those killed in the Space Shuttle Columbia. Current law provides for income tax, estate tax, and death benefit relief to soldiers who are killed in a combat zone, victims of the September 11th attacks, the Oklahoma City bombing victims, and the victims of the anthrax attacks.

The crew of the Space Shuttle Columbia was heroic in every sense of the word. We have a duty to those who lost their lives for the advancement of science and increasing our knowledge of the world we live in. The Armed Forces Tax Fairness Act would make all of the above benefits available to the families of the Columbia crew.

The tenth and final difference between the House bill before us and the Armed Forces Tax Fairness Act is that the bill before us is not offset. In contrast, the Armed Forces Tax Fairness Act is completely offset by strengthening the collection of taxes from people who have renounced their U.S. citizenship in order to avoid U.S. taxes.

However, some of our colleagues in the House have objected to this provision. So, in the interest of enacting these important military tax provisions as quickly possible, the Senate changed the offset to a simple extension of the present law customs user fees.

The Senate amendment to the House bill would add these very important nine provisions. In addition, it would add an offset that the House has not opposed this offset in the past. We hope that this compromise on our part will allow them to pass the provisions from the Armed Forces Tax Fairness Act that we have included in this amendment.

Mr. President, the passage of the death gratuity payments provision is an important first step. However, there are thousands of men and women in uniform that are depending on us to pass the other ten provisions included in the Armed Forces Tax Fairness Act.

Simply put, there is absolutely no excuse if Congress fails to pass the Armed Forces Tax Fairness Act this year.

Everyday, our military men and women fight for our freedom and the freedom of every American. Their sacrifices are great. Passing the other ten provisions included in the Armed Forces Tax Fairness Act is not a lot for them to ask of Congress.

I urge my colleagues in the House to pass the Senate amendment to the *Fallen Patriots Act of 2003*.

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